(1) c f. 1001-

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IN THE HIGH COURT OF JUDICATURE AT BILASPUR, CHHATISGARH

Writ Petition (C) No. 6065 of 2006

(Arising to challenge the assignment of debt by Respondent No. 1 in favor of Respondent No. 2 vide assignment deed dated 16/01/2006)

IN THE MATTER OF:-

M/S K N Oil Industries Limited
A Company registered under the provisions of Companies Act, 1956
Ashram Road, Mahasamund
Chhatisgarh
Through its Managing Director

Petitioner

Versus

R. 1. State Bank of India
Industrial Finance Branch
Raipur, Chhatisgarh
Through its branch manager

P.R. No. 5875/06
Presented by Shri Ghanshyam Patel
dated 26-10-06
31.10 pm

R. 2. Kotak Mahindra Bank Limited
Registered under the provisions of Companies Act, 1956,
Having registered office at:
36-38A Nariman Bhawan
227, Narimon Point
Mumbai 400 021

Respondents

WRIT PETITION UNDER ARTICLE 226 / 227 OF THE CONSTITUTION OF INDIA

HIGH COURT OF CHHATTISGARH : BILASPUR

Division Bench

Coram : Hon'ble Shri H.L. Dattu, CJ &
Hon'ble Shri V.K. Shrivastava, J

WRIT PETITION NO. 6065 OF 2006

PETITIONER M/s. K.N. Oil Industries Limited.

Versus

RESPONDENTS State Bank of India and another..

Present :

Shri Rajeev Mehra, Sr. Advocate with Shri Satish Agrawal and Shri Abhishek Sinha, counsel for the petitioner.

Shri Prashant Mishra, Sr. Advocate with Shri V.R. Tiwari, counsel for respondent No.1.

Shri P. Diwakar, Sr. Advocate with Shri Adil Minhaj, counsel for respondent No.1.

ORAL ORDER

(Passed on 28th February, 2007)

The following oral order of the Court was passed by **H.L. Dattu, C.J.**

Petitioner is a public limited Company. It is engaged in manufacture of soya oil, sal oil, rice bran oil, sal strearine, mango strearine etc.

(2) In this writ petition filed under Article 226/227 of the Constitution of India, petitioner/company calls in question the legality or otherwise of the orders passed by the Debts Recovery Tribunal ("Tribunal", for short) Jabalpur, dated 11/10/2006. By the

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impugned order, the Tribunal has allowed the application filed by respondent No.2 to come on record in the place of the original applicant – State Bank of India.

(3) By way of preliminary objections, Shri Prashant Mishra and Shri P. Diwakar, Sr. Advocates appearing for the respondents would contend that if for any reason petitioner is aggrieved by the orders passed by the Tribunal, dated 11/10/2006, it ought to have filed an appropriate appeal as provided under the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 ("Act, 1993", for short).

(4) Learned counsel appearing for the petitioner would submit that if some time is granted to the petitioner, it would definitely file an appropriate appeal before the First Appellate Authority.

(5) In view of the above, at this stage, it may not be necessary for this Court to go into the merits or demerits of the petitioner's case, suffice to direct the petitioner to file an appropriate appeal before the First Appellate Authority within a particular time.

(6) In view of the above, the following:

Order

i) The petition is disposed of,

ii) Petitioner is granted a month's time from today, if it so desires, to question the legality or otherwise of the orders passed by the Tribunal, Jabalpur, dated 11/10/2006.

iii) If such an appeal is filed by the petitioner within the time granted by this Court, the First Appellate

Authority shall decide the appeal on merits without reference to the period of limitation.

iv) All the contentions of both the parties are left open.

Ordered accordingly.

Sd/-
V.K.Shrivastava
Judge

Sd/-
Chief Justice